The only question is whether a sufficient degree of negligence is proved. If the F.M.S. decision in *Lai Cheow Keok v. P. P.*[1] is to be taken as being law in the Colony the Prosecution in these cases must prove the degree of negligence laid down in *Bateman's case*[2] and *Andrews v. Director of Public Prosecutions*[3].

I have always thought that the F.M.S. case was wrongly decided but I think that on grounds of convenience I should follow it.

In the present case I do not think that the evidence discloses the necessary degree of negligence and the appeal is allowed and the conviction quashed.

Appeal Allowed.

TAN LIAN v. REX.

[Appellate Criminal Jurisdiction (Murray-Aynsley, C.J.) August 30, 1947]

Criminal Procedure Code, Section 435 — General power of forfeiture — Essential Regulations, 1946.

This was an appeal against forfeiture of a motor sampan belonging to the appellant.

Held, that the Essential Regulation did not expressly provide for forfeiture but that a general power of forfeiture arises under Section 435 of the Criminal Procedure Code.

MAGISTRATE'S APPEAL.

C. F. J. Ess for the Appellant.

Lim Koon Teck (D.P.P.) for the Respondent.

Murray-Aynsley, C. J. : — In this case I decided that the Essential Regulation did not expressly provide for forfeiture but that a general power of forfeiture arises under section 435 of the Criminal Procedure Code.

Before exercising this power of forfeiture the Court should, where it is practicable, give the owner of the property concerned an opportunity of showing cause why the order should not be made.

CHU CHIN POH v. REX.

[Appellate Criminal Jurisdiction (Murray-Aynsley, C.J.) July 1, 1947]

Arms and Explosives Ordinance (Cap. 196) Section 7 (1) A. — Possession of arms and ammunition — Person knowingly allowing his house to be used for storage of arms by another person.

In this case the appellant was charged with possession of arms and ammunition contrary to Section 7 (1) A of the Arms and Explosives Ordinance. The facts were that the Police raided the house where the appellant lived. The house belonged to the wife of the appellant. When the Police arrived the appellant ran out and was not seen by the Police again until about a week later. In the house were found arms and ammunition, some in a room, some in a kind of hall. The appellant's story was that the arms belonged to another man.

Held, that if a person who occupies a house as head of the household knowingly allowed his house to be used for the storage of arms by another that person comes within the terms of Section 7 (1) A of the Arms and Explosives Ordinance, even though the house in fact belongs to his wife.

MAGISTRATE'S APPEAL.

E. M. Tampoe-Philips for the Appellant.

Lim Koon Teck (D.P.P.) for the Respondent.

Murray-Aynsley, C. J. : — In this case the appellant was charged with the possession of arms and ammunition contrary to section 7 (1) A of Cap. 196.

The facts are that the Police raided the house where the appellant lived. The house appears to have belonged to wife of the appellant. When the Police arrived the appellant ran out and was not seen by the Police again until about a week later. In the house were found arms and ammunition, some in a certain room, some in a kind of hall.

The story of the appellant was that the room above referred to had been let to the owner of the arms and another man. That the arms belonged to one Ong Hui Seng is probable enough. Whether the other man existed is doubtful and immaterial. The letting, if any, appears to have been a mere licence and not a demise.

In my opinion if a person knowingly allows his house to be used for the storage of arms by another that person is within the terms of the section and this is the case as long as he occupies the house as head of the household even though it belongs to his wife. I find that there is ample evidence of knowledge on the part of the appellant. There was a minimum of attempt at concealment of the arms and ammunition and I can't imagine that a Chinese of the type of the appellant would not be curious about packages left in his house. Further the conduct of the appellant at the time of the raid by the Police and afterwards is indicative of knowledge at least on the part of the appellant.

I think that the conviction is right and the appeal must be dismissed.

Appeal Dismissed.